

REMARKS

Specification

The substitute specification is corrected to show changes and where the changes occur. Also, the numbering of the substitute specification starts with page 1. All changes made in the prior preliminary amendment to the specification (see Paper No. 4) are now incorporated into the substitute specification.

Claim Objections

Claim 24 is canceled to make the objection moot. Now claim 23 does not claim the same subject matter as claim 24 (canceled). Therefore, claim 23 is no longer a rejected base claim and claim 25 can no longer be objected to as being dependent upon a rejected base claim.

Claim Rejections – 35 U.S.C. § 112

Claim 23 is amended to include the MAA acronym. Therefore, there is now antecedent basis for this limitation in claim 26.

Rejection Under 35 U.S.C. § 102

Claims 23-26 are rejected under 35 U.S.C. § 102 as being unpatentable over Tuma et al., HEPATOLOGY, (12 OCT 1995) Vol. 22, No. 4, Part 2, Supp S., pp. 479. Applicants respectfully traverse this rejection. Claim 24 is cancelled.

"Where the applicant is one of the co-authors of a publication cited against his or her application, he or she may overcome the rejection by filing an affidavit or declaration under 37 C.F.R. 1.131." MPEP § 715.01(c) "Alternatively, the applicant may overcome the rejection by

filing a specific affidavit or declaration under 37 C.F.R. 1.132 establishing that the article is describing applicant's own work." Id. "An affidavit or declaration by applicant alone indicating that applicant is the sole inventor and that the others were merely working under his or her direction is sufficient to remove the publication as a reference under 35 U.S.C. 102(a). *In re Katz*, 687 F.2d 450, 215 USPQ 14 (CCPA 1982)." Id.

Per the instructions in the MPEP, copied above, the Applicant overcomes the § 102(a) rejection by an In re Katz declaration.

"Thus, one's own work is not prior art under § 102(a) even though it has been disclosed to the public in a manner or form which otherwise would fall under § 102(a)." In re Katz, 687 F.2d 450, 215 USPQ 14, 17 (CCPA 1982). "Disclosure to the public of one's own work constitutes a bar to the grant of a patent claiming the subject matter so disclosed . . . only when the disclosure occurred more than one year prior to the date of the application." Id. "[A]uthorship of an article by itself does not raise a *presumption* of inventorship with respect to the subject matter disclosed in the article." Id. at 18. "[J]oint inventorship cannot be inferred in the face of sworn statements to the contrary." Id.

The disclosure in the present case occurred less than one year prior to the date of the application. For the reasons above, the Applicant overcomes the § 102(a) rejection.

Conclusion

This is a request under the provision of 37 CFR § 1.136(a) to extend the period for filing a response in the above-identified application for two months from September 25, 2003 to November 25, 2003. Applicant is a small entity; therefore, please charge Deposit Account

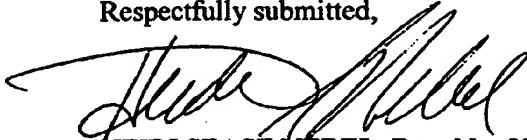
number 26-0084 in the amount of \$210.00 for two months to cover the cost of the extension.

Any deficiency or overpayment should be charged or credited to Deposit Account

26-0084.

Reconsideration and allowance is respectfully requested.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Heidi Sease Nebel", written over a horizontal line.

HEIDI SEASE NEBEL, Reg. No. 37,719
McKEE, VOORHEES & SEASE, P.L.C.
801 Grand Avenue, Suite 3200
Des Moines, Iowa 50309-2721
Phone No: (515) 288-3667
Fax No: (515) 288-1338
CUSTOMER NO: 27140

Attorneys of Record

- bja -